IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMM. FOR JUDGMENT NO.588 OF 2003

IN

SUMM.SUIT NO.936 OF **2003**

M/s K.Pravin & Sons .. Plaintiff

versus

Diamond Shipping Com Ltd.. Defendant

Mr G.R.Mehta for Plaintiff

CORAM : D.G. KARNIK, J

DATED : 19th April 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant. Learned counsel for the plaintiff hands in the affidavit of service of the Summons for Judgment sworn in by Mr. Chandrakant Tandel on 16th April, 2005. The affidavit is taken on record and marked Exhibit A. Despite service of the Summons for Judgment the defendant has not applied for

leave to defend nor filed any affidavit in reply.

2. Learned counsel for the plaintiff also tenders the documents along with the list. The documents are taken on record and collectively marked Exhibit A. I have perused the plaint and the documents filed on record. For valuable consideration the defendant drew two cheques for Rs.1,75,000/- payable to the plaintiff. First cheque when presented for payment was returned with an endorsement " Stop payment" and second cheque was dishonoured for " insufficiency of funds". The plaintiff has therefore filed this suit for recovery of the amount due under the two cheques and interest under section 80 of the Negotiable Instruments Act. The original cheques are produced on record.

3. In the absence of an application for leave to defend or an affidavit in reply, averments made in the plaint are deemed to be accepted. The plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

4. Accordingly, Summons for Judgment is made absolute and suit of the plaintiff is decreed in terms of

prayer clause of the plaint. Drawing up of decree is expedited.

5. Issue court fee refund certificate as per rules.

D.G.KARNIK, J